

AMENDED IN ASSEMBLY MARCH 21, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 476

Introduced by Assembly Member Bonnie Lowenthal

February 15, 2011

~~An act to add Section 21100.6 to the Vehicle Code, relating to vehicles. An act to amend Section 22513 of, and to add Section 34625 to, the Vehicle Code, relating to vehicles.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 476, as amended, Bonnie Lowenthal. Vehicles: tow trucks: illegal ~~operation.~~ *operation: impoundment and release.*

~~Existing law requires a magistrate presented with the affidavit of a peace officer or a designated local transportation officer establishing reasonable cause to believe that a vehicle, described by vehicle type and license number, is being operated as a taxicab or other passenger vehicle for hire in violation of licensing requirements adopted by a local authority to issue a warrant or order authorizing the peace officer or designated local transportation officer to immediately seize and cause the removal of the vehicle.~~

~~Existing law also provides that the vehicle may be impounded for a period not to exceed 30 days and establishes, among other things, procedures for storage, a poststorage hearing, payment of storage charges, and release of the vehicle. A violation of these provisions is an infraction.~~

(1) Existing law authorizes the owner or operator of a tow truck who complies with the specified requirements of the Vehicle Code relating to tow trucks to stop or park the tow truck upon a highway for the purpose of rendering assistance to a disabled vehicle, but prohibits the

owner or operator from soliciting an engagement for towing services or moving a vehicle without proper authorization, unless exempted as specified. A violation of these provisions is a misdemeanor.

This bill would delete the exemptions from these provisions and would establish similar procedures for the seizure and removal of a tow truck that is being operated in violation of local licensing requirements. The bill would also provide that a towing company owner, its agent, or a tow truck operator a tow truck driver or an owner-operator of a tow truck who violates licensing requirements adopted by a local authority these prohibitions is, in addition to being guilty of a misdemeanor punishable, subject to punishment by having the tow truck impounded for a period of 30 days and a \$5,000 \$2,500 fine. By creating a new crime, the bill would impose a state-mandated local program.

(2) Existing law authorizes a member of the Department of the California Highway Patrol to impound a vehicle or combination of vehicles operated by a motor carrier of property, when the vehicle or combination of vehicles is found upon a highway, any public lands, or an offstreet parking facility and the motor carrier is found to be operating, either independently or for another motor carrier, after its motor carrier permit has been suspended by the Department of Motor Vehicles. A motor carrier of property that violates this provision is guilty of a misdemeanor, punishable by a fine of not more than \$2,500, or by imprisonment in the county jail for not more than three months, or by both that fine and imprisonment.

This bill would require, upon the request of a local law enforcement officer, a tow truck driver or an owner-operator of a tow truck to provide to the local law enforcement officer a copy of a valid motor carrier permit and would require a tow truck driver or an owner-operator of a tow truck to display in a conspicuous place on both the right and left sides of a tow truck the business address and telephone number of the company or the owner or operator, as specified. The bill would make a violation of these provisions a misdemeanor punishable by the impoundment of the tow truck for 30 days and a fine not to exceed \$2,500.

The bill would authorize the law enforcement agency, an impounding agency, or the person in possession of the tow truck, or any person acting on behalf of that agency or person to release a tow-truck, before the expiration of that 30-day period to the registered or legal owner or his or her agent only if certain conditions are met, including, but not limited to, the requirement that the legal owner or the legal owner's

agent pay all towing and storage fees related to the impoundment of the tow truck. The bill would require the impounding agency to remain open to issue a release to the registered owner or legal owner of a tow truck whenever the agency is open to serve the public for regular, nonemergency business.

The bill would require specified facilities where impounded tow trucks are stored to accept valid bank credit cards, as defined, or cash as payment for towing, storage, and related fees and would make the facility civilly liable, as specified, for a failure to do so. The bill would make it a misdemeanor for a legal owner of an impounded tow truck to knowingly release the tow truck to the registered owner of the tow truck in certain circumstances. The bill would impose additional requirements with respect to the release of an impounded tow truck.

By creating new crimes, the bill would impose a state-mandated local program.

The

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 22513 of the Vehicle Code is amended to
2 read:

3 22513. (a) Except as provided in subdivision (b) or (c), ~~the~~
4 ~~owner or operator~~ a tow truck driver or an owner-operator of a
5 tow truck who complies with the requirements of this code relating
6 to tow trucks may stop or park the tow truck upon a highway for
7 the purpose of rendering assistance to a disabled vehicle.

8 (b) It is a misdemeanor for ~~the owner or operator~~ a tow truck
9 driver or an owner-operator of a tow truck to stop at the scene of
10 an accident or near a disabled vehicle for the purpose of soliciting
11 an engagement for towing services, either directly or indirectly,
12 or to furnish any towing services, unless summoned to the scene,
13 requested to stop, or flagged down by the owner or operator of a
14 the disabled vehicle or requested to perform the service by a law

1 enforcement officer or public agency pursuant to that agency's
2 procedures.

3 (c) It is a misdemeanor for ~~the owner or operator~~ *a tow truck*
4 *driver or an owner-operator* of a tow truck to move any vehicle
5 from a highway, street, or public property without the express
6 authorization of the owner or operator of the vehicle or a law
7 enforcement officer or public agency pursuant to that agency's
8 procedures, when the vehicle has been left unattended or when
9 there is an injury as the result of an accident.

10 (d) ~~This section shall not apply to the following:~~

11 (1) ~~A vehicle owned or operated by, or under contract to, a~~
12 ~~motor club, as defined by Section 12142 of the Insurance Code,~~
13 ~~which stops to provide services for which compensation is neither~~
14 ~~requested nor received, provided that those services may not~~
15 ~~include towing other than that which may be necessary to remove~~
16 ~~the vehicle to the nearest safe shoulder. The owner or operator of~~
17 ~~such a vehicle may contact a law enforcement agency or other~~
18 ~~public agency on behalf of a motorist, but may not refer a motorist~~
19 ~~to a tow truck owner or operator, unless the motorist is a member~~
20 ~~of the motor club, the motorist is referred to a tow truck owner or~~
21 ~~operator under contract to the motor club, and, if there is a dispatch~~
22 ~~facility which services the area and is owned or operated by the~~
23 ~~motor club, the referral is made through that dispatch facility.~~

24 (2) ~~A tow truck operator employed by a law enforcement agency~~
25 ~~or other public agency.~~

26 (3) ~~A tow truck owner or operator acting under contract with a~~
27 ~~law enforcement or other public agency to abate abandoned~~
28 ~~vehicles, or to provide towing service or emergency road service~~
29 ~~to motorists while involved in freeway service patrol operations,~~
30 ~~to the extent authorized by law.~~

31 (d) (1) *A tow truck driver or an owner-operator of a tow truck*
32 *who violates either subdivision (b) or (c) shall have the tow truck*
33 *impounded for a period of not less than 30 days and shall pay a*
34 *fine not to exceed two thousand five hundred dollars (\$2,500).*

35 (2) *A tow truck impounded under paragraph (1) shall be*
36 *processed for release pursuant to subdivision (c) of Section 34625.*

37 SEC. 2. Section 34625 is added to the Vehicle Code, to read:

38 34625. (a) (1) *Upon the request of a local law enforcement*
39 *officer, a tow truck driver or an owner-operator of a tow truck*
40 *shall provide to the local law enforcement officer a copy of a valid*

1 *motor carrier permit. A violation of this section is a misdemeanor*
2 *punishable by the impoundment of the tow truck for 30 days and*
3 *a fine not to exceed two thousand five hundred dollars (\$2,500).*

4 *(2) It is not a violation of this subdivision if the copy of the*
5 *motor carrier permit that is provided is expired for less than 60*
6 *days.*

7 *(b) A tow truck driver or an owner-operator of a tow truck shall*
8 *display in a conspicuous place on both the right and left sides of*
9 *a tow truck the business address and telephone number of the*
10 *company or the owner or operator pursuant to Section 27907. A*
11 *violation of this section is a misdemeanor punishable by the*
12 *impoundment of the tow truck for 30 days and a fine not to exceed*
13 *two thousand five hundred dollars (\$2,500).*

14 *(c) (1) An impounding agency impounding a tow truck pursuant*
15 *to this section shall send, within two working days of impoundment,*
16 *a notice by certified mail, return receipt requested, to the legal*
17 *owner of the tow truck, at an address obtained from the*
18 *department, informing the owner that the tow truck has been*
19 *impounded. Failure to notify the legal owner within two working*
20 *days shall prohibit the impounding agency from charging for more*
21 *than 15 days' impoundment when a legal owner redeems the*
22 *impounded tow truck. The law enforcement agency shall be open*
23 *to issue a release to the registered owner or legal owner, or the*
24 *agent of either, whenever the agency is open to serve the public*
25 *for regular, nonemergency business.*

26 *(2) The impounding agency shall release a tow truck to the*
27 *registered owner or his or her agent prior to the end of the*
28 *impoundment period under any of the following circumstances:*

29 *(A) When the vehicle is a stolen vehicle.*

30 *(B) When the vehicle was seized under this section for an offense*
31 *that does not authorize the seizure of the vehicle.*

32 *(3) A tow truck shall not be released under this subdivision,*
33 *except upon presentation of the registered owner's or agent's*
34 *currently valid license to operate the vehicle under the licensing*
35 *requirements adopted by the local authority under subdivision (g)*
36 *of Section 21100, and proof of current vehicle registration, or*
37 *upon order of a court.*

38 *(4) Whenever a tow truck is impounded under this section, the*
39 *impounding agency shall provide the vehicle's registered and legal*

1 owners of record, or their agents, with the opportunity for a
2 poststorage hearing to determine the validity of the storage.

3 (5) A notice of the storage shall be mailed or personally
4 delivered to the registered and legal owners within 48 hours after
5 the impoundment, excluding weekends and holidays, by the
6 impounding agency, and shall include all of the following
7 information:

8 (A) The name, address, and telephone number of the agency
9 providing the notice.

10 (B) The location of the place of storage and a description of the
11 tow truck, which shall include, if available, the name or make, the
12 manufacturer, the license plate number, and the mileage of the
13 tow truck.

14 (C) A statement that, in order to receive their poststorage
15 hearing, the owners, or their agents, are required to request the
16 hearing from the impounding agency, in writing, or by telephone,
17 within 10 days of the date of the notice.

18 (6) The poststorage hearing shall be conducted within two
19 business days after receipt of the request for the hearing.

20 (7) At the hearing, the impounding agency shall release the tow
21 truck if the agency finds any of the circumstances described in
22 subdivision (b) or (e) that allow release of the tow truck by the
23 impounding agency.

24 (8) Failure of either the registered or legal owner, or his or her
25 agent, to request, or to attend, a scheduled hearing satisfies the
26 poststorage hearing requirement.

27 (9) The impounding agency shall be responsible for the costs
28 incurred for towing and storage if it is determined in the
29 poststorage hearing that reasonable grounds for the storage are
30 not established.

31 (d) The registered owner or his or her agent is responsible for
32 all towing and storage charges related to the impoundment and
33 any administrative charges authorized under Section 22850.5.

34 (e) A tow truck impounded pursuant to subdivision (a) or (b),
35 or subdivision (b) or (c) of Section 22513, shall be released to the
36 legal owner of the tow truck or the legal owner's agent prior to
37 the end of the impoundment period if all of the following conditions
38 are met:

39 (1) The legal owner is a motor vehicle dealer, bank, credit union,
40 acceptance corporation, or other licensed financial institution

1 *legally operating in this state or is another person, not the*
2 *registered owner, holding a security interest in the tow truck.*

3 (2) (A) *The legal owner or the legal owner's agent pays all*
4 *towing and storage fees related to the impoundment of the tow*
5 *truck. A lien sale processing fee shall not be charged to the legal*
6 *owner who redeems the tow truck prior to the 15th day of*
7 *impoundment. Neither the impounding authority nor any person*
8 *having possession of the tow truck shall collect from the legal*
9 *owner of the type specified in paragraph (1), or the legal owner's*
10 *agent, any administrative charges imposed pursuant to Section*
11 *22850.5, unless the legal owner voluntarily requested a poststorage*
12 *hearing.*

13 (B) *A person operating or in charge of a storage facility where*
14 *vehicles are stored for purposes of an impoundment pursuant to*
15 *this section shall accept a valid bank credit card or cash for*
16 *payment of towing, storage, and related fees by a legal or*
17 *registered owner or the owner's agent claiming the tow truck. A*
18 *credit card shall be in the name of the person presenting the card.*
19 *"Credit card" means "credit card" as defined in subdivision (a)*
20 *of Section 1747.02 of the Civil Code, except, for the purposes of*
21 *this section, credit card does not include a credit card issued by*
22 *a retail seller.*

23 (C) *A person operating or in charge of a storage facility*
24 *described in subparagraph (B) who violates subparagraph (B)*
25 *shall be civilly liable to the owner of the tow truck or to the person*
26 *who tendered the fees for four times the amount of the towing,*
27 *storage, and related fees, but not to exceed five hundred dollars*
28 *(\$500).*

29 (D) *A person operating or in charge of a storage facility*
30 *described in subparagraph (B) shall have sufficient funds on the*
31 *premises of the primary storage facility during normal business*
32 *hours to accommodate, and make change in, a reasonable*
33 *monetary transaction.*

34 (E) *Credit charges for towing and storage services shall comply*
35 *with Section 1748.1 of the Civil Code. Law enforcement agencies*
36 *may include the costs of providing for payment by credit when*
37 *making agreements with towing companies on rates.*

38 (3) (A) *The legal owner or the legal owner's agent presents to*
39 *the law enforcement agency or impounding agency, or any person*
40 *acting on behalf of those agencies, a copy of the assignment, as*

1 *defined in subdivision (b) of Section 7500.1 of the Business and*
2 *Professions Code; a release from the one responsible governmental*
3 *agency, only if required by the agency; a government-issued*
4 *photographic identification card; and any one of the following as*
5 *determined by the legal owner or the legal owner's agent: a*
6 *certificate of repossession for the tow truck, a security agreement*
7 *for the tow truck, or title, whether paper or electronic, showing*
8 *proof of legal ownership for the tow truck. The law enforcement*
9 *agency, impounding agency, or any other governmental agency,*
10 *or any person acting on behalf of those agencies, shall not require*
11 *the presentation of any other documents.*

12 *(B) The legal owner or the legal owner's agent presents to the*
13 *person in possession of the tow truck, or any person acting on*
14 *behalf of the person in possession, a copy of the assignment, as*
15 *defined in subdivision (b) of Section 7500.1 of the Business and*
16 *Professions Code; a release from the one responsible governmental*
17 *agency, only if required by the agency; a government-issued*
18 *photographic identification card; and any one of the following as*
19 *determined by the legal owner or the legal owner's agent: a*
20 *certificate of repossession for the tow truck, a security agreement*
21 *for the tow truck, or title, whether paper or electronic, showing*
22 *proof of legal ownership for the tow truck. The person in possession*
23 *of the tow truck, or any person acting on behalf of the person in*
24 *possession, shall not require the presentation of any other*
25 *documents.*

26 *(C) All presented documents may be originals, photocopies, or*
27 *facsimile copies, or may be transmitted electronically. The law*
28 *enforcement agency, impounding agency, or any person in*
29 *possession of the tow truck, or anyone acting on behalf of them,*
30 *shall not require any documents to be notarized. The law*
31 *enforcement agency, impounding agency, or any person acting on*
32 *behalf of those agencies, may require the agent of the legal owner*
33 *to produce a photocopy or facsimile copy of its repossession agency*
34 *license or registration issued pursuant to Chapter 11 (commencing*
35 *with Section 7500) of Division 3 of the Business and Professions*
36 *Code, or to demonstrate, to the satisfaction of the law enforcement*
37 *agency, impounding agency, or any person in possession of the*
38 *tow truck, or anyone acting on behalf of them, that the agent is*
39 *exempt from licensure pursuant to Section 7500.2 or 7500.3 of the*
40 *Business and Professions Code.*

1 (D) Administrative costs authorized under subdivision (a) of
2 Section 22850.5 shall not be charged to the legal owner of the type
3 specified in paragraph (1) who redeems the tow truck unless the
4 legal owner voluntarily requests a poststorage hearing. A city,
5 county, city and county, or state agency shall not require a legal
6 owner or a legal owner's agent to request a poststorage hearing
7 as a requirement for release of the tow truck to the legal owner
8 or the legal owner's agent. The law enforcement agency,
9 impounding agency, or any other governmental agency, or any
10 person acting on behalf of those agencies, shall not require any
11 documents other than those specified in this paragraph. The law
12 enforcement agency, impounding agency, or other governmental
13 agency, or any person acting on behalf of those agencies, may not
14 require any documents to be notarized. The legal owner or the
15 legal owner's agent shall be given a copy of any documents he or
16 she is required to sign, except for a vehicle evidentiary hold
17 logbook. The law enforcement agency, impounding agency, or any
18 person acting on behalf of those agencies, or any person in
19 possession of the tow truck, may photocopy and retain the copies
20 of any documents presented by the legal owner or legal owner's
21 agent.

22 (4) A failure by a storage facility to comply with any applicable
23 conditions set forth in this subdivision shall not affect the right of
24 the legal owner or the legal owner's agent to retrieve the tow truck
25 if all conditions required of the legal owner or legal owner's agent
26 under this subdivision are satisfied.

27 (f) (1) A legal owner or the legal owner's agent that obtains
28 release of the tow truck pursuant to subdivision (e) shall not release
29 the tow truck to the registered owner of the tow truck or the person
30 who was listed as the registered owner when the tow truck was
31 impounded or any agents of the registered owner until the
32 termination of the impoundment period.

33 (2) The legal owner or the legal owner's agent shall not
34 relinquish the tow truck to the registered owner or the person who
35 was listed as the registered owner when the tow truck was
36 impounded until the registered owner or that owner's agent
37 presents his or her valid driver's license or valid temporary
38 driver's license, and an operator's license that is in compliance
39 with the licensing requirements adopted by the local authority
40 under subdivision (g) of Section 21100, to the legal owner or the

1 legal owner's agent. The legal owner or the legal owner's agent
2 or the person in possession of the tow truck shall make every
3 reasonable effort to ensure that the licenses presented are valid
4 and possession of the tow truck will not be given to the driver who
5 was involved in the original impoundment proceeding until the
6 expiration of the impoundment period.

7 (3) Prior to relinquishing the tow truck, the legal owner may
8 require the registered owner to pay all towing and storage charges
9 related to the impoundment and the administrative charges
10 authorized under Section 22850.5 that were incurred by the legal
11 owner in connection with obtaining the custody of the tow truck.

12 (4) Any legal owner who knowingly releases or causes the
13 release of a tow truck to a registered owner or the person in
14 possession of the tow truck at the time of the impoundment or any
15 agent of the registered owner in violation of this subdivision shall
16 be guilty of a misdemeanor and subject to a civil penalty in the
17 amount of two thousand dollars (\$2,000).

18 (5) The legal owner, registered owner, or person in possession
19 of the tow truck shall not change or attempt to change the name
20 of the legal owner or the registered owner on the records of the
21 department until the tow truck is released from the impoundment.

22 (g) Notwithstanding any other provision of this section, the
23 registered owner and not the legal owner shall remain responsible
24 for any towing and storage charges related to the impoundment
25 and the administrative charges authorized under Section 22850.5
26 and any parking fines, penalties, and administrative fees incurred
27 by the registered owner.

28 (h) The law enforcement agency and the impounding agency,
29 including any storage facility acting on behalf of the law
30 enforcement agency or the impounding agency, shall comply with
31 this section and shall not be liable to the registered owner for the
32 improper release of the tow truck to the legal owner or the legal
33 owner's agent provided the release complies with the provisions
34 of this section. The legal owner shall indemnify and hold harmless
35 a storage facility from any claims arising out of the release of the
36 tow truck to the legal owner or the legal owner's agent and from
37 any damage to the tow truck after its release, including the
38 reasonable costs associated with defending any such claims. A
39 law enforcement agency shall not refuse to issue a release to a

1 *legal owner or the agent of a legal owner on the grounds that it*
2 *previously issued a release.*

3 ~~SECTION 1. Section 21100.6 is added to the Vehicle Code,~~
4 ~~to read:~~

5 ~~21100.6. (a) A towing company owner, its agent, or a tow~~
6 ~~truck operator who fails to comply with the licensing requirements~~
7 ~~adopted by a local authority under subdivision (b) of Section 21100~~
8 ~~is guilty of a misdemeanor punishable by a fine of five thousand~~
9 ~~dollars (\$5,000).~~

10 ~~(b) (1) A magistrate presented with the affidavit of a peace~~
11 ~~officer or a designated local transportation officer establishing~~
12 ~~reasonable cause to believe that a vehicle, described by vehicle~~
13 ~~type and license number, is being operated as a tow truck in~~
14 ~~violation of licensing requirements adopted by a local authority~~
15 ~~under subdivision (b) of Section 21100 shall issue a warrant or~~
16 ~~order authorizing the peace officer or designated local~~
17 ~~transportation officer to immediately seize and cause the removal~~
18 ~~of the vehicle. As used in this section, "designated local~~
19 ~~transportation officer" means any local public officer employed~~
20 ~~by a local authority to investigate and enforce local towing, storage,~~
21 ~~and vehicle for hire laws and regulations.~~

22 ~~(2) The warrant or court order may be entered into a~~
23 ~~computerized database.~~

24 ~~(3) A vehicle so impounded may be impounded for a period not~~
25 ~~to exceed 30 days.~~

26 ~~(4) The impounding agency, within two working days of~~
27 ~~impoundment, shall send a notice by certified mail, return receipt~~
28 ~~requested, to the legal owner of the vehicle, at an address obtained~~
29 ~~from the department, informing the owner that the vehicle has~~
30 ~~been impounded and providing the owner with a copy of the~~
31 ~~warrant or court order. Failure to notify the legal owner within~~
32 ~~two working days shall prohibit the impounding agency from~~
33 ~~charging for more than 15 days' impoundment when a legal owner~~
34 ~~redeems the impounded vehicle. The law enforcement agency shall~~
35 ~~be open to issue a release to the registered owner or legal owner,~~
36 ~~or the agent of either, whenever the agency is open to serve the~~
37 ~~public for regular, nonemergency business.~~

38 ~~(c) (1) An impounding agency shall release a vehicle to the~~
39 ~~registered owner or his or her agent prior to the end of the~~
40 ~~impoundment period and without the permission of the magistrate~~

1 ~~authorizing the vehicle's seizure under any of the following~~
2 ~~circumstances:~~

3 ~~(A) When the vehicle is a stolen vehicle.~~

4 ~~(B) When the vehicle was seized under this section for an~~
5 ~~offense that does not authorize the seizure of the vehicle.~~

6 ~~(2) A vehicle shall not be released under this subdivision, except~~
7 ~~upon presentation of the registered owner's or agent's current valid~~
8 ~~license to operate the vehicle under the licensing requirements~~
9 ~~adopted by the local authority under subdivision (b) of Section~~
10 ~~21100, and proof of current vehicle registration, or upon order of~~
11 ~~the court.~~

12 ~~(d) (1) Whenever a vehicle is impounded under this section,~~
13 ~~the magistrate ordering the storage shall provide the vehicle's~~
14 ~~registered and legal owners of record, or their agents, with the~~
15 ~~opportunity for a poststorage hearing to determine the validity of~~
16 ~~the storage.~~

17 ~~(2) A notice of the storage shall be mailed or personally~~
18 ~~delivered to the registered and legal owners within 48 hours after~~
19 ~~issuance of the warrant or court order, excluding weekends and~~
20 ~~holidays, by the person or agency executing the warrant or court~~
21 ~~order, and shall include all of the following information:~~

22 ~~(A) The name, address, and telephone number of the agency~~
23 ~~providing the notice.~~

24 ~~(B) The location of the place of storage and a description of the~~
25 ~~vehicle, which shall include, if available, the name or make, the~~
26 ~~manufacturer, the license plate number, and the mileage of the~~
27 ~~vehicle.~~

28 ~~(C) A copy of the warrant or court order and the peace officer's~~
29 ~~affidavit, as described in subdivision (b).~~

30 ~~(D) A statement that, in order to receive their poststorage~~
31 ~~hearing, the owners, or their agents, are required to request the~~
32 ~~hearing from the magistrate issuing the warrant or court order in~~
33 ~~person, in writing, or by telephone, within 10 days of the date of~~
34 ~~the notice.~~

35 ~~(3) The poststorage hearing shall be conducted within two court~~
36 ~~days after receipt of the request for the hearing.~~

37 ~~(4) At the hearing, the magistrate may order the vehicle released~~
38 ~~if he or she finds any of the circumstances described in subdivision~~
39 ~~(e) or (f) that allow release of a vehicle by the impounding agency.~~

1 ~~(5) Failure of either the registered or legal owner, or his or her~~
2 ~~agent, to request, or to attend, a scheduled hearing satisfies the~~
3 ~~poststorage hearing requirement.~~

4 ~~(6) The agency employing the peace officer or designated local~~
5 ~~transportation officer who caused the magistrate to issue the~~
6 ~~warrant or court order shall be responsible for the costs incurred~~
7 ~~for towing and storage if it is determined in the poststorage hearing~~
8 ~~that reasonable grounds for the storage are not established.~~

9 ~~(e) The registered owner or his or her agent is responsible for~~
10 ~~all towing and storage charges related to the impoundment, and~~
11 ~~any administrative charges authorized under Section 22850.5.~~

12 ~~(f) A vehicle removed and seized under subdivision (b) shall~~
13 ~~be released to the legal owner of the vehicle or the legal owner's~~
14 ~~agent prior to the end of the impoundment period and without the~~
15 ~~permission of the magistrate authorizing the seizure of the vehicle~~
16 ~~if all of the following conditions are met:~~

17 ~~(1) The legal owner is a motor vehicle dealer, bank, credit union,~~
18 ~~acceptance corporation, or other licensed financial institution~~
19 ~~legally operating in this state or is another person, not the registered~~
20 ~~owner, holding a security interest in the vehicle.~~

21 ~~(2) (A) The legal owner or the legal owner's agent pays all~~
22 ~~towing and storage fees related to the seizure of the vehicle. A lien~~
23 ~~sale processing fee shall not be charged to the legal owner who~~
24 ~~redeems the vehicle prior to the 15th day of impoundment. Neither~~
25 ~~the impounding authority nor a person having possession of the~~
26 ~~vehicle shall collect from the legal owner as specified in paragraph~~
27 ~~(1), or the legal owner's agent, any administrative charges imposed~~
28 ~~pursuant to Section 22850.5 unless the legal owner voluntarily~~
29 ~~requested a poststorage hearing.~~

30 ~~(B) A person operating or in charge of a storage facility where~~
31 ~~vehicles are stored pursuant to this section shall accept a valid~~
32 ~~bank credit card or cash for payment of towing, storage, and related~~
33 ~~fees by the legal or registered owner or the owner's agent claiming~~
34 ~~the vehicle. A credit card shall be in the name of the person~~
35 ~~presenting the card. "Credit card" means "credit card" as defined~~
36 ~~in subdivision (a) of Section 1747.02 of the Civil Code, except,~~
37 ~~for the purposes of this section, credit card does not include a credit~~
38 ~~card issued by a retail seller.~~

39 ~~(C) A person operating or in charge of a storage facility~~
40 ~~described in subparagraph (B) who violates subparagraph (B) shall~~

1 be civilly liable to the owner of the vehicle or to the person who
2 tendered the fees for four times the amount of the towing, storage,
3 and related fees, but not to exceed five hundred dollars (\$500).

4 ~~(D) A person operating or in charge of a storage facility~~
5 ~~described in subparagraph (B) shall have sufficient funds on the~~
6 ~~premises of the primary storage facility during normal business~~
7 ~~hours to accommodate, and make change in, a reasonable monetary~~
8 ~~transaction.~~

9 ~~(E) Credit charges for towing and storage services shall comply~~
10 ~~with Section 1748.1 of the Civil Code. Law enforcement agencies~~
11 ~~may include the costs of providing for payment by credit when~~
12 ~~making agreements with towing companies on rates.~~

13 ~~(3) (A) The legal owner or the legal owner's agent presents to~~
14 ~~the law enforcement agency or impounding agency, or any person~~
15 ~~acting on behalf of those agencies, a copy of the assignment, as~~
16 ~~defined in subdivision (b) of Section 7500.1 of the Business and~~
17 ~~Professions Code, a release from the one responsible governmental~~
18 ~~agency, only if required by the agency, a government-issued~~
19 ~~photographic identification card, and any one of the following as~~
20 ~~determined by the legal owner or the legal owner's agent: a~~
21 ~~certificate of repossession for the vehicle, a security agreement~~
22 ~~for the vehicle, or a title, whether paper or electronic, showing~~
23 ~~proof of legal ownership for the vehicle. The law enforcement~~
24 ~~agency, the impounding agency, or any other governmental agency,~~
25 ~~or any person acting on behalf of those agencies, shall not require~~
26 ~~the presentation of any other documents.~~

27 ~~(B) The legal owner or the legal owner's agent presents to the~~
28 ~~person in possession of the vehicle, or any person acting on behalf~~
29 ~~of the person in possession of the vehicle, a copy of the assignment,~~
30 ~~as defined in subdivision (b) of Section 7500.1 of the Business~~
31 ~~and Professions Code, a release from the one responsible~~
32 ~~governmental agency, only if required by the agency, a~~
33 ~~government-issued photographic identification card, and any one~~
34 ~~of the following as determined by the legal owner or the legal~~
35 ~~owner's agent: a certificate of repossession for the vehicle, a~~
36 ~~security agreement for the vehicle, or a title, whether paper or~~
37 ~~electronic, showing proof of legal ownership for the vehicle. The~~
38 ~~person in possession of the vehicle, or any person acting on behalf~~
39 ~~of the person in possession of the vehicle, shall not require the~~
40 ~~presentation of any other documents.~~

1 ~~(C) All presented documents may be originals, photocopies,~~
2 ~~facsimile copies, or transmitted electronically. The law enforcement~~
3 ~~agency, the impounding agency, or any person in possession of~~
4 ~~the vehicle, or anyone acting on behalf of these agencies or the~~
5 ~~person in possession of the vehicle, shall not require any documents~~
6 ~~to be notarized. The law enforcement agency, the impounding~~
7 ~~agency, or any person acting on behalf of those agencies, may~~
8 ~~require the agent of the legal owner to produce a photocopy or~~
9 ~~facsimile copy of its repossession agency license or registration~~
10 ~~issued pursuant to Chapter 11 (commencing with Section 7500)~~
11 ~~of Division 3 of the Business and Professions Code, or to~~
12 ~~demonstrate, to the satisfaction of the law enforcement agency,~~
13 ~~the impounding agency, or any person in possession of the vehicle,~~
14 ~~or anyone acting on behalf of these agencies or the person in~~
15 ~~possession of the vehicle, that the agent is exempt from licensure~~
16 ~~pursuant to Section 7500.2 or 7500.3 of the Business and~~
17 ~~Professions Code.~~

18 ~~(D) The administrative costs authorized under subdivision (a)~~
19 ~~of Section 22850.5 shall not be charged to the legal owner as~~
20 ~~specified in paragraph (1) who redeems the vehicle unless the legal~~
21 ~~owner voluntarily requests a poststorage hearing. A city, county,~~
22 ~~city and county, or state agency shall not require a legal owner or~~
23 ~~a legal owner's agent to request a poststorage hearing as a~~
24 ~~requirement for release of the vehicle to the legal owner or the~~
25 ~~legal owner's agent. The law enforcement agency, the impounding~~
26 ~~agency, or any other governmental agency, or any person acting~~
27 ~~on behalf of those agencies, shall not require any documents other~~
28 ~~than those specified in this paragraph. The law enforcement agency,~~
29 ~~impounding agency, or other governmental agency, or any person~~
30 ~~acting on behalf of those agencies, shall not require any documents~~
31 ~~to be notarized. The legal owner or the legal owner's agent shall~~
32 ~~be given a copy of any documents he or she is required to sign,~~
33 ~~except for a vehicle evidentiary hold logbook. The law enforcement~~
34 ~~agency, the impounding agency, or any person acting on behalf~~
35 ~~of those agencies, or any person in possession of the vehicle, may~~
36 ~~photocopy and retain the copies of any documents presented by~~
37 ~~the legal owner or legal owner's agent.~~

38 ~~(4) A failure by a storage facility to comply with any applicable~~
39 ~~conditions set forth in this subdivision shall not affect the right of~~
40 ~~the legal owner or the legal owner's agent to retrieve the vehicle~~

1 if all conditions required of the legal owner or legal owner's agent
2 under this subdivision are satisfied.

3 ~~(g) (1) A legal owner or the legal owner's agent that obtains~~
4 ~~release of the vehicle pursuant to subdivision (f) shall not release~~
5 ~~the vehicle to the registered owner of the vehicle or the person~~
6 ~~who was listed as the registered owner when the vehicle was~~
7 ~~impounded or any agents of the registered owner until the~~
8 ~~termination of the impoundment period.~~

9 ~~(2) The legal owner or the legal owner's agent shall not~~
10 ~~relinquish the vehicle to the registered owner or the person who~~
11 ~~was listed as the registered owner when the vehicle was impounded~~
12 ~~until the registered owner or that owner's agent presents his or her~~
13 ~~valid driver's license or valid temporary driver's license, and an~~
14 ~~operator's license that is in compliance with the licensing~~
15 ~~requirements adopted by the local authority under subdivision (b)~~
16 ~~of Section 21100, to the legal owner or the legal owner's agent.~~
17 ~~The legal owner or the legal owner's agent or the person in~~
18 ~~possession of the vehicle shall make every reasonable effort to~~
19 ~~ensure that the licenses presented are valid and possession of the~~
20 ~~vehicle will not be given to the driver who was involved in the~~
21 ~~original impoundment proceeding until the expiration of the~~
22 ~~impoundment period.~~

23 ~~(3) Prior to relinquishing the vehicle, the legal owner may~~
24 ~~require the registered owner to pay all towing and storage charges~~
25 ~~related to the impoundment and the administrative charges~~
26 ~~authorized under Section 22850.5 that were incurred by the legal~~
27 ~~owner in connection with obtaining the custody of the vehicle.~~

28 ~~(4) Any legal owner who knowingly releases or causes the~~
29 ~~release of a vehicle to a registered owner or the person in~~
30 ~~possession of the vehicle at the time of the impoundment or any~~
31 ~~agent of the registered owner in violation of this subdivision shall~~
32 ~~be guilty of a misdemeanor and subject to a civil penalty in the~~
33 ~~amount of two thousand dollars (\$2,000).~~

34 ~~(5) The legal owner, registered owner, or person in possession~~
35 ~~of the vehicle shall not change or attempt to change the name of~~
36 ~~the legal owner or the registered owner on the records of the~~
37 ~~department until the vehicle is released from the impoundment.~~

38 ~~(h) Notwithstanding any other provision of this section, the~~
39 ~~registered owner and not the legal owner shall remain responsible~~
40 ~~for any towing and storage charges related to the impoundment~~

1 and the administrative charges authorized under Section 22850.5
2 and any parking fines, penalties, and administrative fees incurred
3 by the registered owner.

4 (i) The law enforcement agency and the impounding agency,
5 including any storage facility acting on behalf of the law
6 enforcement agency or impounding agency, shall comply with this
7 section and shall not be liable to the registered owner for the
8 improper release of the vehicle to the legal owner or the legal
9 owner's agent if the release complies with this section. The legal
10 owner shall indemnify and hold harmless a storage facility from
11 any claims arising out of the release of the vehicle to the legal
12 owner or the legal owner's agent and from any damage to the
13 vehicle after its release, including the reasonable costs associated
14 with defending the claims. A law enforcement agency shall not
15 refuse to issue a release to a legal owner or the agent of a legal
16 owner on the grounds that it previously issued a release.

17 ~~SEC. 2.~~

18 *SEC. 3.* No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.